

ORIGINAL



0000107982

BEFORE THE ARIZONA CORPORATION COMMISSION
RECEIVED

COMMISSIONERS

KRISTIN K. MAYES - CHAIRMAN

GARY PIERCE

PAUL NEWMAN

SANDRA D. KENNEDY

BOB STUMP

2010 FEB 24 P 3:43

AZ CORP COMMISSION

DOCKET CONTROL

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. WS-02676A-09-0257
RIO RICO UTILITIES, INC., AN ARIZONA)
CORPORATION, FOR A DETERMINATION OF)
THE FAIR VALUE OF ITS UTILITY PLANT AND)
PROPERTY AND FOR INCREASES IN ITS)
WATER AND WASTEWATER RATES AND)
CHARGES FOR UTILITY SERVICE BASED)
THEREON.)

NOTICE OF FILING

Rio Rico Properties, Inc., through undersigned counsel, hereby files the Surrebuttal
Testimony of Matthew Rowell.

RESPECTFULLY SUBMITTED this 24th day of February 2010.

ROSHKA DEWULF & PATTEN, PLC

By

Michael W. Patten

Timothy J. Sabo

One Arizona Center

400 East Van Buren Street, Suite 800

Phoenix, Arizona 85004

Attorneys for Rio Rico Properties, Inc.

Original and 13 copies of the foregoing
filed this 24th day of February 2010 with:

Docket Control
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

Arizona Corporation Commission

DOCKETED

FEB 24 2010

DOCKETED BY

ROSHKA DeWULF & PATTEN, PLC

ONE ARIZONA CENTER
400 EAST VAN BUREN STREET - SUITE 800
PHOENIX, ARIZONA 85004
TELEPHONE NO 602-256-6100
FACSIMILE 602-256-6800

Copy of the foregoing hand-delivered/mailed
this 24th day of February 2010 to:

Jay Shapiro
Fennemore Craig, PC
3003 North Central Avenue
Phoenix, Arizona 85012

Daniel W. Pozefsky
Chief Counsel
Residential Utility Consumer Office
1110 West Washington, Suite 220
Phoenix, Arizona 85007

Jane Rodda, Esq.
Administrative Law Judge
Hearing Division
Arizona Corporation Commission
400 W. Congress
Tucson, Arizona 85701

Robin Mitchell, Esq.
Legal Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Steve Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

By Mary J. J. J. J.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTEN K. MAYES - CHAIRMAN
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE APPLICATION OF) DOCKET NO. WS-02676A-09-0257
RIO RICO UTILITIES, INC., AN ARIZONA)
CORPORATION, FOR A DETERMINATION OF)
THE FAIR VALUE OF ITS UTILITY PLANT)
AND PROPERTY AND FOR INCREASES IN ITS)
WATER AND WASTEWATER RATES AND)
CHARGES FOR UTILITY SERVICE BASED)
THEREON.)
_____)

Surrebuttal Testimony of

Matthew J. Rowell

on Behalf of

Rio Rico Properties, Inc.

February 24, 2010

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

TABLE OF CONTENTS

I. Introduction.....1

II. Response to Company’s Rebuttal Testimony.....1

1 **I. Introduction.**

2
3 **Q. Are you the same Matthew Rowell that provided Direct Testimony in this Docket?**

4 A. Yes.
5

6 **Q. What is the purpose of your Surrebuttal Testimony?**

7 A. This Surrebuttal Testimony will respond to the Rebuttal Testimony of Greg Sorensen on
8 behalf of Rio Rico Utilities, Inc. ("Rio Rico" or "Company") and will lay out Rio Rico
9 Properties, Inc. ("Avatar") position on Company's proposed Hook-Up Fee tariff ("HUF.")
10

11 **II. Response to Company's Rebuttal Testimony**

12
13 **Q. Mr. Sorensen seems to insinuate that you are not qualified to testify regarding HUFs.¹**
14 **How do you respond?**

15 A. I spent 10 years of my career as a member of the Arizona Corporation Commission's
16 Utility Division Staff. For about half that time I managed a section of analysts that dealt
17 with a wide range of utility regulatory issues. I provided testimony in rate cases myself
18 and oversaw several other Staff members who also provided testimony in rate (and other)
19 cases. I also lead the Commission's Water Task Force and authored the Staff Report in
20 that matter; HUFs were a major topic of the Water Task Force. More recently I provided
21 testimony on behalf of a major Arizona water/wastewater utility on the subject of the
22 regulatory treatment of developer provided funds.² Given the above, I believe that Mr.
23 Sorensen's insinuations regarding my qualifications are without merit.
24
25
26

27 ¹ Sorensen Rebuttal at 5:6-19.

² Docket No. SW-20445A-09-0077 et. al.

1 **Q. Mr. Sorensen argues that a HUF is an appropriate tool that a utility can use to**
2 **“balance its total capitalization” regardless of whether new capacity is needed or not.³**

3 **How do you respond?**

4 A. First, I do not agree that HUFs (or contributions generally) should be used solely to
5 balance a utility’s capital structure in the absence of any need for capacity. The purpose of
6 contributions is to offset some of the cost of additional capacity necessitated by new
7 development. If a HUF is imposed in the absence of a need for capacity, new customers
8 will essentially be subsidizing existing customers. Second, a review of Rio Rico’s capital
9 structure indicates that there is no need for such “balancing.” Rio Rico’s current combined
10 water and wastewater capital structure is summarized below:

11 **Table 1 Rio Rico’s Current Capital Structure⁴**

Type	Amount	Percent
Debt	\$ 0	0%
Equity	\$ 12,132,312	32%
AIAC	\$ 360,294	1%
CIAC	\$ 25,277,870	67%
Total	\$ 37,770,476	100%

20
21 Table 1 clearly shows that Rio Rico’s current CIAC balance is more than double its equity
22 balance. Thus adding more CIAC to the capital structure will not provide any “balance.”
23 Rather, additional CIAC will serve to further imbalance the current capital structure which
24 is already heavily weighted towards CIAC.

25
26 ³ Sorensen Rebuttal at 5:24-6:4.

27 ⁴ Debt and Equity: Bourassa Schedule D-1 and Rebuttal at 2; AIAC and CIAC: Bourassa Rebuttal
Schedule B-1.

1 **Q. Do you believe that a capital structure consisting of 67% CIAC is inappropriate?**

2 A. As I explained in my direct testimony, excessive CIAC in a utility's capital structure can
3 be a serious problem. Ultimately, how much CIAC is "excessive" or "too much" is a partly
4 subjective determination based on experience, judgment and the particular circumstances
5 of a utility. Historically, Commission Staff has recommended that utilities have no more
6 than 30% AIAC and CIAC as part of their capital structure.⁵ In addition, historically Staff
7 has believed that new utilities require "higher levels of equity" and will typically
8 recommend that they have 100% equity.⁶ As shown in a recent National Association of
9 Water Companies Report, in the industry, overreliance on CIAC is widely regarded as
10 being problematic.⁷ My point here is that there is no need to add additional CIAC to Rio
11 Rico's capital structure simply for the sake of "balance."
12

13 **Q. In addition to the above, is there additional evidence that no additional CIAC is**
14 **necessary simply to "balance" the amount of CIAC in Rio Rico's capital structure?**

15 A. Yes. Comparing Rio Rico's CIAC balance with other water and wastewater utilities
16 reveals that Rio Rico currently has a high level of CIAC relative to its industry peers.
17 Figure 1 and Table 2 below show gross plant and CIAC balances for a sample of Arizona
18 Water and Wastewater Utilities:
19
20
21
22
23
24

25 ⁵ Staff Report dated October 2006 in Docket No. W-00000C-06-0149 at 6; Staff Report dated
26 Nov. 21, 2007 in Docket No. SW-20494A-06-0769 et al., Exhibit 3 at 5; Decision No. 71414
(Dec. 8, 2009) at 9:4-7.

27 ⁶ Staff Report dated October 2006 in Docket No. W-00000C-06-0149 at 7.

⁷ See 2009 NAWC Water Policy Forum, Summary Report, April 2009 at 26.

Figure 1: CIAC as a percentage of gross plant for selected AZ utilities

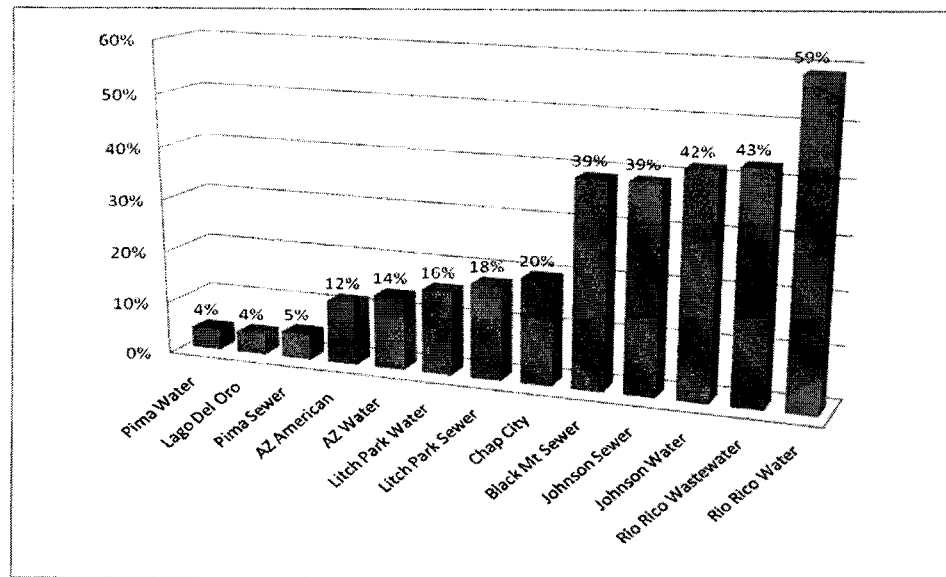


Table 2: Relative CIAC balances of selected AZ utilities

	Gross Plant	CIAC	CIAC/Plant
Pima Water	\$ 16,921,138	\$ 632,418	4%
Lago Del Oro	\$ 13,845,207	\$617,102	4%
Pima Sewer	\$ 19,295,663	\$937,694	5%
AZ American	\$727,024,593	\$86,050,209	12%
AZ Water	\$377,813,049	\$51,041,945	14%
Litchfield Park Water	\$ 71,703,441	\$11,343,809	16%
Litchfield Park Sewer	\$ 61,635,652	\$11,343,809	18%
Chap City	\$ 63,230,809	\$12,878,686	20%
Black Mountain Sewer	\$ 13,715,669	\$5,341,461	39%
Johnson Sewer	\$131,484,976	\$51,485,187	39%
Johnson Water	\$ 80,634,561	\$33,943,376	42%
Rio Rico Wastewater	\$ 11,829,043	\$5,137,673	43%
Rio Rico Water	\$ 34,059,801	\$20,140,197	59%

1 Table 2 shows that relative to total plant installed, the Rio Rico utilities have extremely
2 high levels of CIAC relative to their peers. Figure 1 shows the same information
3 graphically. This is further evidence that additional CIAC is not necessary solely to
4 provide "balance."

5
6 **Q. Is the use of the HUF to "balance" the Company's capital structure consistent with**
7 **the language of the Company's proposed HUF?**

8 A. No. Section IV. (B) of the proposed water HUF states:⁸

9
10 Hook-Up Fees *only* may be used to pay for capital items of Off
11 Site Facilities, or for repayment of loans obtained to fund the cost
of installation of Off Site Facilities. (Emphasis added.)

12 So the proposed HUF itself precludes the use of the HUF funds for purposes other than
13 paying for necessary Off Site Facilities. Therefore, using the funds solely to provide
14 "balance" to the Company's capital structure appears to be precluded by the language of
15 the Company's proposed HUF.

16
17 **Q. Is there evidence that Rio Rico's commitment to a balanced capital structure is**
18 **questionable?**

19 A. Yes. Mr. Sorensen states: "...the utility should be allowed to charge the developer for the
20 *full cost* of central plant required to serve the development through a combination of HUFs
21 and LXAs."⁹ (Emphasis added.) If Rio Rico plans on using CIAC to fund the *full cost* of
22 all additional off-site plant, that can hardly be referred as a policy of "balancing" the
23 source of capital for such facilities.

24
25
26
27 ⁸ Identical language is included at section V.(B) of the proposed wastewater HUF.

⁹ Sorensen Rebuttal at page 8 lines 18-19 (emphasis added).

1 **Q. Is Mr. Sorensen's contention that the HUF be used to "balance" the Company's**
2 **capital structure consistent with the Company's responses to Data Requests in the**
3 **case?**

4 A. No. In response to Avatar Data Request 2.3b, the Company indicates that "hook-up fees
5 are for new capacity required to provide service." No mention is made of using the HUF
6 to "balance" the Company's capital structure.

7
8 **Q. In your Direct Testimony you indicated that Rio Rico would be filing a revised HUF**
9 **tariff. Was the revised HUF tariff ever filed?**

10 A. No. Discussions between Company and Avatar council had led us to believe that a revised
11 tariff similar to the Commission's standard HUF as had been proposed by the Company in
12 the pending Litchfield Park Service Company rate case (Docket Nos. SW-01428A-09-
13 0103, W-01427A-09-0104) would be filed and thus my Direct Testimony did not include a
14 discussion of the problems with the Company's proposed HUF. However, the revised
15 HUF was never filed.

16
17 **Q. Please discuss the problematic ambiguities included in Rio Rico's proposed HUF.**

18 A. At several points in the Company's proposed HUF references are made to potential
19 undefined future payments that may be required in addition to the HUF. These references
20 to potential future payments are highly problematic because of the uncertainty they create.
21 If the Commission ultimately decides a HUF is appropriate for Rio Rico, the HUF should
22 be amended to remove this uncertainty and specific language should be added to the HUF
23 to insure that additional payments will not be required.

24
25 **Q. Please indicate each instance where references are made to potential future payments**
26 **in the proposed HUFs.**

27 A. **First**, Section IV(A) of the proposed water HUF states that a "supplemental assessment

1 may apply” if the intended use of a parcel is altered.¹⁰ This language is highly ambiguous;
2 it is not clear how much the “supplemental assessment” will be or how it will be
3 calculated. It is also not clear what events would trigger the “supplemental assessment.”
4

5 **Second**, Section IV(D) of the proposed water HUF makes reference to “additional
6 facilities required by the Company” and to “additional requirements imposed by the
7 Company.”¹¹ Again, this language is highly ambiguous and problematic. The proposed
8 HUFs contain no explanation of what these additional facilities and requirements might be
9 or under what circumstances the Company can impose them. These vague and unclear
10 provisions could be read to allow the Company to charge as much as it wants regardless of
11 what the Commission found to be a reasonable HUF – a result that is wholly at odds with
12 one of the main benefits of HUFs – certainty.

13
14 **Third**, Section IV(H) of the proposed water HUF indicates that the hook up fee “may not
15 cover the total costs to be borne by Applicant for necessary Off-Site Facilities...”¹² Again,
16 this is an ambiguous reference to potential obligations in addition to those contained in the
17 HUF.

18
19 In order to provide certainty and to ensure that the HUF is utilized appropriately all of the
20 above listed references should be eliminated from the HUF.

21
22 **Q. Are there other necessary clarifications to the proposed HUF?**

23 **A.** Yes. Language should also be added to the HUF indicating that the HUF does not apply to
24 service connections that meet the following criteria:
25

26 ¹⁰ Section V(A) of the proposed wastewater HUF contains identical language.

27 ¹¹ Section V(D) of the proposed wastewater HUF contains identical language.

¹² Section V(H) of the proposed wastewater HUF contains identical language.

- A Main Extension Agreement for the connection was in place at the time the HUF tariff was approved by the Commission.
- Service connections in a subdivision that was receiving service from the company at the time this HUF tariff was approved by the Commission.
- Service connections in a subdivision for which the Company has accepted on-sites at the time this HUF tariff was approved by the Commission.

Additionally, the HUF should be amended to make it clear that wastewater treatment capacity purchased from a third party will count as a credit against the HUF in the same manner as contributed plant.

Q. Have you prepared a revised HUF tariff for the Commission's consideration?

A. Yes. Attachments 1 and 2 to this Surrebuttal Testimony are proposed revised HUFs for water and wastewater, respectively. Attachments 1 and 2 are red-lined versions of the HUF tariffs proposed by the Company's affiliate, Litchfield Park Service Co. in Docket Nos. SW-01428A-09-0103, W-01427A-09-0104 (filed as part of a Stipulation on December 31, 2009), which were based on the Commission's standard form HUF.

Q. Mr. Sorensen indicates that Rio Rico has attempted to explain the ambiguities in the proposed HUF in its responses to Avatar's data requests.¹³ How do you respond?

A. Data request responses do not provide the necessary assurances to Avatar. In order to provide certainty and avoid future disputes, clarifying language should be added to the HUFs, should they be approved by the Commission. As I stated in my Direct Testimony, the Arizona Administrative Code is silent on Hook Up Fees. Thus, the language contained in a utility's HUF is extremely important.

¹³ Sorensen Direct at 9.

1 Q. Mr. Sorensen argues that the Company will be forced to bear risks commensurate
2 with those born by the development business if the Company is not permitted to
3 collect the full cost of off-site facilities as contributions.¹⁴ How do you respond?

4 A. Mr. Sorensen's statements concerning risk are overblown. Utilities like Rio Rico do not
5 face the same risk profile as developers. It is unlikely that developers will incur the
6 expense of MXAs and HUF payments unless they are reasonably sure that development
7 will actually occur. That is especially true now given that the recent real estate downturn
8 has created caution in the development community. Further, unlike developers, utilities
9 have a captive base of customers that provide a regular revenue stream. Thus it is very
10 difficult to understand how a utility like Rio Rico could have the same risk profile of a
11 developer. This is evidenced by the fact that the recent real estate downturn has resulted in
12 the bankruptcy of several well established developers and builders in Arizona, yet I am not
13 aware of any Arizona utilities that were forced into bankruptcy as a result of the same
14 circumstances.

15
16 The Company's overblown concerns regarding risk appear to be an attempt to evade its
17 responsibility to make the investments necessary to provide service within its CC&N
18 territory. It is the utility's responsibility, not the developer's, to provide off-site plant
19 necessary to provide service within the CC&N area. In response to Avatar Data Request
20 2.3.b the Company acknowledges that "it must invest capital into the utility." Yet now it
21 appears that the Company seeks to avoid any additional investments in the utility and
22 would have developers bear the full costs of any additional necessary plant.

23
24
25
26
27

¹⁴ Sorensen Rebuttal at 8:7-9.

1 **Q. Mr. Sorensen agrees that a credit to the HUF would be “reasonable” when off-site**
2 **plant is contributed directly by the developer but only if an MXA is in place.¹⁵ How**
3 **do you respond?**

4 A. I see no reason to limit such credits to instances where MXAs are in place. Mr. Sorensen
5 acknowledges that many future customers may connect to Rio Rico’s systems without the
6 need for a MXA.¹⁶ If a developer contributes plant or capacity necessary to serve such
7 customers there is no reason why such a contribution should not be credited against the
8 HUF.

9
10 **Q. Why is it important that contributions for off-site plant in addition to those required**
11 **by the HUF be prohibited?**

12 A. It is unreasonable to subject developers to the uncertainty of not knowing how much will
13 ultimately be required of them to fund off-site plant. It is also unreasonable to expect
14 developers to cover the “full cost” of necessary off-site plant additions. This would run
15 counter to the Company’s stated goal of maintaining a balanced capital structure. Also, in
16 the long run, requiring developers to fund the full cost of off-site infrastructure will result
17 in undercapitalized utilities.

18
19 **Q. Are you suggesting that a HUF be denied until the last second before backbone plant**
20 **is needed, as Mr. Sorensen suggests?¹⁷**

21 A. No. It would be appropriate to put a HUF in place prior to the need for more capacity.
22 However, the need for additional capacity should be reasonably foreseeable. Additionally,
23 specific projects should be identified so that the cost justification for the HUF can be
24 reviewed. That is not the situation in the current case – the Company has not identified
25 any specific projects intended to increase capacity. Rather, the cost back up for the HUF is

26 ¹⁵ Sorensen Rebuttal at 9:16-23.

27 ¹⁶ Sorensen Rebuttal at 6:9-11.

¹⁷ Sorensen Rebuttal at 6:16-21.

1 based on historical overall capital costs per customer and estimates of future overall capital
2 costs per customer.¹⁸
3

4 **Q. Is Avatar opposed to developers paying their fair share of growth-related costs?**

5 A. No. Avatar recognizes that some level of contribution is appropriate to fund plant
6 necessary to serve new growth. Avatar is not opposed to funding some portion of
7 necessary new capacity through a HUF or through contributed plant or contributed
8 capacity. Avatar's concern is that its obligations be clearly defined and limited to a
9 reasonable portion of necessary new infrastructure.
10

11 **Q. You have presented recommendations for changes to the Companies' proposed HUF.**
12 **Do you have any recommendations in the event that the Commission denies the HUF?**

13 A. Yes. Predictability is a key concern for Avatar. If the HUF is denied, the Company may
14 attempt to force Avatar to pay similar fees as non-HUF contributions. That would be
15 especially problematic if the Commission found that the Company has sufficient existing
16 capacity to serve projected near-term growth (3-5 years). If the Commission denies a
17 HUF, I recommend that the Commission order the Company not to assess any off-site
18 CIAC charges until the Commission either: (1) approves a HUF; or (2) the Commission
19 issues a finding that additional off-site capacity will be needed in the near-term.
20

21 **Q. Does this conclude your Surrebuttal Testimony?**

22 A. Yes.
23
24
25
26
27

¹⁸ Rio Rico response to Avatar Data Request 2.1.

ATTACHMENT

"1"

ATTACHMENT 1
TARIFF SCHEDULE

UTILITY: Rio Rico Utilities, Inc.- Water

DECISION NO.

DOCKET NO. 09-0104

EFFECTIVE DATE:

WATER HOOK-UP FEE

I. Purpose and Applicability

The purpose of the off-site hook-up fees payable to Rio Rico Utilities, Inc.-Water Division ("the Company") pursuant to this tariff is to equitably apportion the costs of constructing additional off-site facilities necessary to provide water production, delivery, storage and pressure among all new service connections. These charges are applicable to all new service connections undertaken via Main Extension Agreements or requests for service not requiring a Main Extension Agreement entered into after the effective date of this tariff. These charges are not applicable to new service connections that satisfy any of the following conditions:

- A Main Extension Agreement for the service connection was in place at the time this HUF tariff was approved by the Arizona Corporation Commission ("Commission.")
- The service connection is in a subdivision that was receiving service from the Company at the time this HUF tariff was approved by the Commission.
- The service connection is in a subdivision for which the Company has accepted on-sites at the time this HUF tariff was approved by the Commission.

-The charges are one-time charges and are payable as a condition to Company's establishment of service, as more particularly provided below. These hook-up fees are the total amount due (per connection) to the Company for funding off-site facilities. No additional charges shall be assessed by the company associated with the construction of off-site facilities or capacity.

II. Definitions

Unless the context otherwise requires, the definitions set forth in R-14-2-401 of the Arizona Corporation Commission's ("Commission") rules and regulations governing water utilities shall apply in interpreting this tariff schedule.

"Applicant" means any party entering into an agreement with Company for the installation of water facilities to serve new service connections, and may include Developers and/or Builders of new residential subdivisions and/or commercial and industrial properties.

"Company" means Rio Rico Utilities, Inc. – Water Division.

"Main Extension Agreement" means any agreement whereby an Applicant, Developer and/or Builder agrees to advance the costs of the installation of water facilities necessary to the Company to serve new service connections within a development, or installs such water facilities necessary to serve new service connections and transfers ownership of such water facilities to the Company, which agreement shall require the approval of the Commission pursuant to A.A.C. R-14-2-406, and shall have the same meaning as "Water Facilities Agreement" or "Line Extension Agreement."

"Off-site Facilities" means wells, storage tanks and related appurtenances necessary for proper operation, including engineering and design costs. Off-site facilities may also include booster pumps, pressure tanks, transmission mains and related appurtenances

necessary for proper operation if these facilities are not for the exclusive use of the applicant and will benefit the entire water system.

"Service Connection" means and includes all service connections for single-family residential, commercial, industrial or other uses, regardless of meter size.

III. Water Hook-up Fee

For each new service connection, the Company shall collect an off-site hook-up fee derived from the following table:

OFF-SITE WATER HOOK-UP FEE TABLE		
METER SIZE	SIZE FACTOR	TOTAL FEE(A)
5/8" x 3/4"	1	\$1,800
3/4"	1.5	\$2,700
1"	2.5	\$4,500
1-1/2"	5	\$9,000
2"	8	\$14,400
3"	16	\$28,800
4"	25	\$45,000
6" or larger	50	\$90,000

(A) For "Active Adult" communities with demonstrated age-restricted zoning and/or CCRs providing for age-restricted living, the Total Fee shall be Two-Thirds (2/3) of the Total Fee shown above, based on an ERU factor of 190 gallons per day.

IV. Terms and Conditions

(A) Assessment of One Time Off-Site Hook-up Fee: Subject to the restrictions in Section I above, ~~T~~the off-site hook-up fee may be assessed only once per parcel, service connection, or lot within a subdivision (similar to meter and service line installation charge).

(B) Use of Off-Site Hook-up Fee: Off-site hook-up fees may only be used to pay for capital items of Off-site Facilities, or for repayment of loans obtained to fund the cost of installation of off-site facilities. Off-site hook-up fees shall not be used to cover repairs, maintenance, or operational costs.

(C) Time of Payment:

- 1) For those requiring a Main Extension Agreement: In the event that the person or entity that will be constructing improvements ("Applicant", "Developer" or "Builder") is otherwise required to enter into a Main Extension Agreement, whereby the Applicant, Developer or Builder agrees to advance the costs of installing mains, valves, fittings, hydrants and other on-site improvements in order to extend service in accordance with R-14-2-406(B), payment of the Hook-Up Fees required hereunder shall be made by the Applicant, Developer or Builder no later than within 15 calendar days after receipt of notification from the Company that the Utilities Division of the Arizona Corporation Commission has approved the Main Extension Agreement in accordance with R-14-2-406(M).
- 2) For those connecting to an existing main: In the event that the Applicant, Developer or Builder for service is not required to enter into a Main Extension Agreement, the Hook-Up Fee charges hereunder shall be due and payable at the time the meter and service line installation fee is due and payable.

(D) Off-Site Facilities Construction By Developer: Company and Applicant, Developer, or Builder may agree to construction or acquisition of off-site facilities including water production capacity, necessary to serve a particular development by Applicant, Developer or Builder, which facilities are then conveyed to Company. In that event, Company shall credit the total cost of such off-site facilities as an offset to off-site hook-up fees due under this Tariff. If the total cost of the off-site facilities constructed by Applicant, Developer or Builder and conveyed to Company is less than the applicable off-site hook-up fees under this Tariff, Applicant, Developer or Builder shall pay the remaining amount of off-site hook-up fees owed hereunder. If the total cost of the off-site facilities contributed by Applicant, Developer or Builder and conveyed to Company is more than the applicable off-site hook-up fees under this Tariff, Applicant, Developer or Builder shall be refunded the difference upon acceptance of the off-site facilities by the Company.

(E) Failure to Pay Charges; Delinquent Payments: The Company will not be obligated to make an advance commitment to provide or actually provide water service to any Developer, Builder or other applicant for service in the event that the Developer, Builder or other applicant for service has not paid in full all charges hereunder. Under no circumstances will the Company set a meter or otherwise allow service to be established if the entire amount of any payment due hereunder has not been paid.

(F) Large Subdivision/Development Projects: In the event that the Applicant, Developer or Builder is engaged in the development of a residential subdivision and/or development containing more than 150 lots, the Company may, in its reasonable

discretion, agree to payment of off-site hook-up fees in installments. Such installments may be based on the residential subdivision and/or development's phasing, and should attempt to equitably apportion the payment of charges hereunder based on the Applicant's, Developer's or Builder's construction schedule and water service requirements. In the alternative, the Applicant, Developer, or Builder shall post an irrevocable letter of credit in favor of the Company in a commercially reasonable form, which may be drawn by the Company consistent with the actual or planned construction and hook up schedule for the subdivision and/or development.

(G) Off-Site Hook-Up Fees Non-refundable: The amounts collected by the Company as Hook-Up Fees pursuant to the off-site hook-up fee tariff shall be non-refundable contributions in aid of construction.

(H) Use of Off-Site Hook-Up Fees Received: All funds collected by the Company as off-site hook-up fees shall be deposited into a separate interest bearing trust account and used solely for the purposes of paying for the costs of installation of off-site facilities, including repayment of loans obtained for the installation of off-site facilities that will benefit the entire water system.

(I) Off-Site Hook-up Fee in Addition to On-site Facilities: The off-site hook-up fee shall be in addition to any costs associated with the construction of on-site facilities under a Main Extension Agreement.

(J) Disposition of Excess Funds: After all necessary and desirable off-site facilities are constructed utilizing funds collected pursuant to the off-site hook-up fees, or if the off-site hook-up fee has been terminated by order of the Arizona Corporation Commission, any funds remaining in the trust shall be refunded. The manner of the refund shall be determined by the Commission at the time a refund becomes necessary.

(K) Fire Flow Requirements: In the event the applicant for service has fire flow requirements that require additional facilities beyond those facilities whose costs were included in the off-site hook-up fee, and which are contemplated to be constructed using the proceeds of the off-site hook-up Fee, the Company may require the applicant to install such additional facilities as are required to meet those additional fire flow requirements, as a non-refundable contribution, in addition to the off-site hook-up fee.

(L) Status Reporting Requirements to the Commission: The Company shall submit a calendar year Off-Site Hook-Up Fee status report each January to Docket Control for the prior twelve (12) month period, beginning January 2011, until the hook-up fee tariff is no longer in effect. This status report shall contain a list of all customers that have paid the hook-up fee tariff, the amount each has paid, the physical location/address of the property in respect of which such fee was paid, the amount of money spent from the account, the amount of interest earned on the funds within the tariff account, and a list of all facilities that have been installed with the tariff funds during the 12 month period.

ATTACHMENT

"2"

ATTACHMENT 2

TARIFF SCHEDULE

UTILITY: Rio Rico Utilities, Inc.— Wastewater
DOCKET NO.: 09-0103

DECISION NO. _____
EFFECTIVE DATE: ____

WASTEWATER HOOK-UP FEE

I. Purpose and Applicability

The purpose of the off-site facilities hook-up fees payable to Rio Rico Utilities, Inc.—Wastewater Division ("the Company") pursuant to this tariff is to equitably apportion the costs of constructing additional off-site facilities to provide wastewater treatment and disposal facilities among all new service laterals. These charges are applicable to all new service laterals undertaken via Collection Main Extension Agreements, or requests for service not requiring a Collection Main Extension Agreement, entered into after the effective date of this tariff. These charges are not applicable to new service connections that satisfy any of the following conditions:

- A Main Extension Agreement for the service connection was in place at the time this HUF tariff was approved by the Arizona Corporation Commission ("Commission.")
- The service connection is in a subdivision that was receiving service from the company at the time this HUF tariff was approved by the Commission.
- The service connection is in a subdivision for which the Company has accepted on-sites at the time this HUF tariff was approved by the Commission.

The charges are one-time charges and are payable as a condition to Company's establishment of service, as more particularly provided below. These hook-up fees are the total amount due (per connection) to the Company for funding off-site facilities. No additional charges shall be assessed by the company associated with the construction of off-site facilities or capacity.

II. Definitions

Unless the context otherwise requires, the definitions set forth in R-14-2-601 of the Arizona Corporation Commission's ("Commission") rules and regulations governing sewer utilities shall apply interpreting this tariff schedule.

"Applicant" means any party entering into an agreement with Company for the installation of wastewater facilities to serve new service laterals, and may include Developers and/or Builders

of new residential subdivisions, and industrial or commercial properties.

"Company" means Rio Rico Utilities, Inc.– Wastewater Division.

"Collection Main Extension Agreement" means an agreement whereby an Applicant, Developer and/or Builder agrees to advance the costs of the installation of wastewater facilities necessary to serve new service laterals, or install wastewater facilities to serve new service laterals and transfer ownership of such wastewater facilities to the Company, which agreement does not require the approval of the Commission pursuant to A.A.C. R-14-2-606, and shall have the same meaning as "Wastewater Facilities Agreement".

"Off-site Facilities" means the wastewater treatment plant, sludge disposal facilities, effluent disposal facilities and related appurtenances necessary for proper operation, including engineering and design costs. Offsite facilities may also include lift stations, force mains, transportation mains and related appurtenances necessary for proper operation if these facilities are not for the exclusive use of the applicant and benefit the entire wastewater system. "Service Lateral" means and includes all service laterals for single-family residential, commercial, industrial or other uses.

III. Wastewater Hook-up Fee

For each new residential service lateral, the Company shall collect a Hook-Up Fee of \$1,800 based on the Equivalent Residential Unit ("ERU") of 320 gallons per day. Commercial and industrial applicants shall pay based on the total ERUs of their development calculated by dividing the estimated total daily wastewater capacity usage needed for service using standard engineering standards and criteria by the ERU factor of 320 gallons per day. For "Active Adult" communities with demonstrated age-restricted zoning and/or CCRs providing for age-restricted living, the Hook-Up Fee shall be \$1,070, based on an ERU factor of 190 gallons per day.

IV. Terms and Conditions

(A) Assessment of One Time Off-Site Facilities Hook-up Fee: Subject to the restrictions in Section I above, ~~The~~ off-site facilities hook-up fee may be assessed only once per parcel, service lateral, or lot within a subdivision (similar to a service lateral installation charge).

(B) Use of Off-Site Facilities Hook-up Fee: Off-site facilities hook-up fees may only be used to pay for capital items of Off-site Facilities, or for repayment of loans obtained to fund the cost of installation of off-site facilities. Off-site hook-up fees shall not be used to cover repairs, maintenance, or operational costs.

(C) Time of Payment:

- (1) In the event that the person or entity that will be constructing improvements ("Applicant", "Developer" or "Builder") is otherwise required to enter into a Collection Main Extension Agreement, payment of the fees required hereunder shall be made by the Applicant, Developer or Builder within 15 days of execution of a Main Extension Agreement.

- (2) In the event that the Applicant, Developer or Builder for service is not required to enter into a Collection Main Extension Agreement, the Hook-Up Fee charges hereunder shall be due and payable at the time wastewater service is requested for the property.

(D) Off-Site Facilities Constructed or Acquired by Developer: Company and Applicant, Developer, or Builder may agree to construction of off-site facilities necessary to serve a particular development by Applicant, Developer or Builder, which facilities are then conveyed to Company. Additionally, Company and Applicant, Developer, or Builder may agree to the acquisition of wastewater treatment capacity (i.e., a right to use a third party's wastewater treatment capacity) from a third party, which is then conveyed to Company. In either that event, Company shall credit the total cost of such off-site facilities or capacity as an offset to off-site hook-up fees due under this Tariff. If the total cost of the off-site facilities constructed by Applicant, Developer or Builder or capacity acquired by Applicant, Developer or Builder and conveyed to Company is less than the applicable off-site hook-up fees under this Tariff, Applicant, Developer or Builder shall pay the remaining amount of off-site hook-up fees owed hereunder. If the total cost of the off-site facilities and/or treatment capacity constructed or acquired by Applicant, Developer or Builder and conveyed to Company is more than the applicable off-site hook-up fees under this Tariff, Developer or Builder shall be refunded the difference upon acceptance of the off-site facilities by the Company.

(E) Failure to Pay Charges; Delinquent Payments: The Company will not be obligated to make an advance commitment to provide or actually provide wastewater service to any Developer, Builder or other applicant for service in the event that the Developer, Builder or other applicant for service has not paid in full all charges hereunder. Under no circumstances will the Company connect service or otherwise allow service to be established if the entire amount of any payment has not been paid.

(F) Large Subdivision and/or Development Projects: In the event that the Applicant, Developer or Builder is engaged in the development of a residential subdivision and/or development containing more than 150 lots, the Company may, in its reasonable discretion, agree to payment of off-site hook-up fees in installments. Such installments may be based on the residential subdivision and/or development's phasing, and should attempt to equitably apportion the payment of charges hereunder based on the Applicant's, Developer's or Builder's construction schedule and water service requirements. In the alternative, the Applicant, Developer, or Builder shall post an irrevocable letter of credit in favor of the Company in a commercially reasonable form, which may be drawn by the Company consistent with the actual or planned construction and hook up schedule for the subdivision and/or development.

(G) Off-Site Hook-Up Fees Non-refundable: The amounts collected by the Company pursuant to the off-site facilities hook-up fee tariff shall be non-refundable contributions in aid of construction.

(H) Use of Off-Site Hook-Up Fees Received: All funds collected by the Company as off-site facilities hook-up fees shall be deposited into a separate account and bear interest and shall be used solely for the purposes of paying for the costs of installation of off-site facilities, including

repayment of loans obtained for the installation of off-site facilities.

(I) Off-Site Facilities Hook-up Fee in Addition to On-site Facilities: The off-site facilities hook-up fee shall be in addition to any costs associated with the construction of on-site facilities under a Collection Main Extension Agreement.

(J) Disposition of Excess Funds: After all necessary and desirable off-site facilities are constructed utilizing funds collected pursuant to the off-site facilities hook-up fees, or if the off-site facilities hook-up fee has been terminated by order of the Arizona Corporation Commission, any funds remaining in the trust shall be refunded. The manner of the refund shall be determined by the Commission at the time a refund becomes necessary.

(K) Status Reporting Requirements to the Commission: The Company shall submit a calendar year Off-Site Facilities Hook-Up Fee status report each January to Docket Control for the prior twelve (12) month period, beginning January 2011, until the hook-up fee tariff is no longer in effect. This status report shall contain a list of all customers that have paid the hook-up fee tariff, the amount each has paid, the physical location/address of the property in respect of which such fee was paid, the amount of money spent from the account, the amount of interest earned on the funds within the tariff account, and an itemization of all facilities that have been installed using the tariff funds during the 12 month period.